

Summary of Liability Limitation Provisions in H.R. 3210

- In general, section 15 of H.R. 3210 imposes significant limits on liability in all terrorism-related cases, not just those involving insurance claims. It would supercede the law in all 50 states.
- Federalizes all causes of action in any case where the Secretary of the Treasury unilaterally decides there has been one or more acts of terrorism. *This decision is not subject to any judicial review, and may well be unconstitutional.*
- Totally prohibits punitive damages. *This means a baggage screening firm would be protected from liability if it hired incompetent employees or deliberately failed to check for weapons and a terrorist act subsequently resulted.*
- Eliminates joint and several liability for non-economic damages. *This relegates damages for loss of limb or a lifetime of excruciating pain to second class treatment and shifts the risk of nonpayment from the wrongdoer to the victim.*
- Prohibits plaintiffs from recovering such non-economic damages unless the plaintiff suffered physical harm. *This would prevent a spouse who loses their partner in a terrorist attack, and thereby suffers loss of consortium, from obtaining non-economic damages.*
- Caps attorneys' fees at twenty percent of damages, enforceable by fine and/or up to one year in prison. *Fee caps, which appear to apply only to victims, result in less access to justice for lower-income populations.*
- Requires that a plaintiff's recovery must be offset by any funds received pursuant to any emergency or disaster relief program or any other collateral source. *This means that a victim will be forced to choose between seeking funds from charity or seeking compensation from the negligent party.*
- Prohibits prejudgment interest. *This reduces the incentive for defendants to seek pre-trial settlements.*